

AMENDED IN SENATE JUNE 29, 2002

AMENDED IN SENATE JUNE 24, 2002

AMENDED IN ASSEMBLY MAY 23, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

## ASSEMBLY BILL

**No. 433**

### Introduced by Committee on Budget

February 20, 2001

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An act to amend Sections ~~17052.2, 17053.84, 17276.3, 19136.8, 23457, 23684, 24348, 24416.3, and 24449~~ of, to add Article 4 (commencing with Section 30133) to Chapter 2 of Part 13 of Division 2 of, and to add and repeal Section 17041.1 of, the Revenue and Taxation Code, and to amend and supplement the Budget Act of 2002, relating to revenue and appropriations for the support of the government of the State of California, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately. *10754, 17052.2, 17276.3, 19136.8, 23457, 24348, 24416.3, and 24449 of, to add Article 4 (commencing with Section 30133) to Chapter 2 of Part 13 of Division 2 of, and to add and repeal Sections 7093.8 and 19444 of, the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

#### LEGISLATIVE COUNSEL'S DIGEST

AB 433, as amended, Committee on Budget. Sales and use taxes: *vehicle license fees*: personal income and corporation taxes: cigarette taxes: ~~Budget Act of 2002.~~

~~Under the Personal Income Tax Law, taxes are imposed at specified rates up to a maximum of 9.3% based on the amount of the taxpayer's taxable income and a maximum of 7% based on the taxpayer's alternative minimum taxable income.~~

~~This bill would, for taxable years beginning on or after January 1, 2002, and before January 1, 2004, impose 10% and 11% maximum rates for taxpayers with taxable incomes over certain amounts, and impose an 8.5% maximum rate based upon the taxpayer's alternative minimum taxable income. This bill would also provide for the waiver of certain penalties imposed with respect to the underpayment of tax.~~

*The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. Any unpaid taxes due and payable under that law are subject to penalties, interest, and any expenses and fees associated with the collection of the taxes owed.*

*This bill, for the period beginning on October 1, 2002, and ending on June 30, 2003, would authorize the State Board of Equalization to forgive any penalties and interest on unpaid taxes owed by eligible taxpayers, as defined, to the extent that the underlying tax liability is reduced by an eligible amount, as defined.*

*The Personal Income Tax Law imposes a tax measured by the income of residents and part-year residents. Any unpaid taxes due and payable under that law are subject to penalties, interest, and any expenses and fees associated with the collection of the taxes owed.*

*This bill, for the period beginning on October 1, 2002, and ending on June 30, 2003, would authorize the Franchise Tax Board to forgive any penalties, interest, and fees on unpaid taxes owed by eligible taxpayers, as defined, to the extent that the underlying tax liability is reduced by an eligible amount, as defined.*

*The Vehicle License Fee (VLF) Law establishes, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state in the amount of 2% of the market value of that vehicle, as specified. The VLF Law offsets this amount by 67.5% for vehicle license fees with a final due date on or after July 1, 2001, and provides for transfers of General Fund moneys to reimburse local governments for revenue losses resulting from vehicle license fee offsets.*

*This bill would, for the calendar year beginning on January 1, 2003, reduce the VLF offset to an amount equal to 25% of the vehicle license fee. By increasing the amount of money deposited in the Motor Vehicle*

*License Fee Account, a continuously appropriated special account, this bill would make an appropriation.*

The Personal Income Tax Law authorizes various credits against the tax imposed by that law, including a credit for credentialed teachers in an amount equal to the lesser of (1) the applicable of specified amounts based upon years of service as a teacher, or (2) 50% of the amount of tax imposed upon the taxpayer's income that is attributable to service as a teacher at a qualifying educational institution.

This bill would suspend the credit for taxable years beginning on or after January 1, 2002, and before January 1, 2003.

~~The Personal Income Tax Law and the Bank and Corporation Tax Law allow, for any taxable year beginning on or after January 1, 2001, and before January 1, 2004, a credit in an amount equal to the lesser of 15% of the specified cost of any solar energy system, or the applicable dollar amount per rated watt of that solar energy system, as provided.~~

~~This bill would suspend that credit for any taxable year beginning on or after January 1, 2002, and before January 1, 2003.~~

Existing law allows individual and corporate taxpayers to utilize net operating loss carryovers for purposes of offsetting their individual and corporate tax liabilities.

This bill would disallow *the deduction for* specified net operating loss carryovers in the 2002 and 2003 taxable years. The bill would extend the carryover period for the net operating losses, thus allowing the taxpayers to have the same number of years to utilize the ~~loss~~ *deduction* as they would have if the change had not been enacted. *For taxable years beginning on and after January 1, 2004, this bill would allow a net operating loss deduction in an amount equal to 80% of the net operating loss carried over.*

*Existing law, with respect to the administration of income and corporate taxes, imposes penalties with respect to the underpayment of taxes.*

*This bill would provide for the waiver of certain penalties imposed for the underpayment of tax with respect to any law enacted during the 2002 calendar year.*

The Bank and Corporation Tax Law, in specified conformity to federal income tax laws allows a deduction for bad debts, except that, among other things, the deduction of a savings and loan association, or bank or financial corporation is determined in accordance with special rules that allow a deduction for a reasonable addition to a reserve for bad debts.



This bill would, with respect to banks, modify that special rule to provide additional conformity to federal income tax laws relating to reserves for losses on loans of banks, except as otherwise provided. This bill would also make related changes with respect to the alternative minimum tax.

The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates, including additional taxes imposed under the Tobacco Tax and Health Protection Act of 1988 (Proposition 99), and the California Families and Children Act of 1998 (Proposition 10).

This bill would, beginning on ~~September~~ August 1, 2002, impose an additional tax on the distribution of cigarettes at the rate of ~~25~~ 31.5 mills for each cigarette distributed. The revenues collected from this additional tax would be deposited in the General Fund.

~~This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.~~

~~The California Constitution requires that the annual Budget Act be enacted for the support of state government in each fiscal year.~~

~~This bill would revise the Budget Act of 2002 by augmenting and reappropriating certain appropriations, as specified.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1    ~~SECTION 1. It is the intent of the Legislature that the~~  
 2    ~~revenues~~  
 3    *SECTION 1. Section 7093.8 is added to the Revenue and*  
 4    *Taxation Code, to read:*  
 5    *7093.8. (a) (1) For the period beginning on October 1,*  
 6    *2002, and ending on June 30, 2003, an eligible taxpayer's liability,*  
 7    *with respect to any unpaid taxes, may be satisfied by the payment*  
 8    *of an eligible amount. The authority granted by this section is*  
 9    *limited to an unpaid tax liability that has been determined by the*  
 10    *State Board of Equalization to be a high-risk collection account.*

1     (2) *The liability of an eligible taxpayer for any unpaid penalties*  
2 *and interest included in the computation of the unpaid tax liability*  
3 *shall be extinguished only upon receipt by the State Board of*  
4 *Equalization of all payments equal to the eligible amount on or*  
5 *before the final due date for payment established by the State*  
6 *Board of Equalization.*

7     (b) *For purposes of this section, the following definitions*  
8 *apply:*

9     (1) *“Eligible taxpayer” means any individual that receives*  
10 *notification from the State Board of Equalization that the*  
11 *taxpayer’s unpaid tax liability may be satisfied by the payment of*  
12 *an eligible amount.*

13     (2) *“Eligible amount” means an amount equal to any unpaid*  
14 *tax liability, excluding penalties and interest, owed by the eligible*  
15 *taxpayer that is paid in one or more installments, as determined by*  
16 *the State Board of Equalization, on or before the due date*  
17 *established by the State Board of Equalization, but in no event*  
18 *later than June 30, 2004.*

19     (3) *“High-risk collection account” means any unpaid tax*  
20 *liability of a taxpayer where satisfaction of that liability under this*  
21 *section would be in the best interest of the state, and shall include*  
22 *any unpaid tax liability for which the State Board of Equalization*  
23 *has made either of the following determinations:*

24     (A) *Under the State Board of Equalization’s collection*  
25 *modeling policies, practices, and procedures, efforts to collect the*  
26 *unpaid tax liability would not be economical.*

27     (B) *The unpaid tax liability would not be paid in full within a*  
28 *reasonable period of time.*

29     (4) *“Unpaid tax liability” means any final determination of*  
30 *liability under Part 1 (commencing with Section 6001), including*  
31 *tax, penalties, and interest, that are owed by an individual and, as*  
32 *of October 1, 2002, are unpaid.*

33     (c) *No refund or credit shall be granted with respect to any*  
34 *penalty or interest paid or collected with respect to an unpaid tax*  
35 *liability prior to October 1, 2002.*

36     (d) *The determinations made by the State Board of*  
37 *Equalization pursuant to this section shall be final and conclusive*  
38 *and shall not be subject to review by any other officer, employee,*  
39 *or agent of the state, or by any court.*

1 (e) Nothing in Section 7056, or in any other provision of law,  
2 shall be construed to require the disclosure of standards used or to  
3 be used in connection with any determinations made by the State  
4 Board of Equalization for purposes of this section, or the data used  
5 or to be used for determining those standards if the State Board of  
6 Equalization determines that the disclosure will seriously impair  
7 assessment, collection, or enforcement under this part.

8 (f) Nothing in this section shall authorize the State Board of  
9 Equalization to compromise any final tax liability.

10 (g) The Legislature finds that it is essential for fiscal purposes  
11 that the special collection efforts authorized by this section be  
12 expeditiously implemented. Accordingly, Chapter 3.5  
13 (commencing with Section 11340) of Part 1 of Division 3 of Title  
14 2 of the Government Code shall not apply to any standard,  
15 criterion, procedure, determination, rule, notice, or guideline  
16 established or issued in implementing and administering the  
17 program required by this section.

18 (h) This section shall be operative with respect to unpaid tax  
19 liabilities of high-risk collection accounts that are the subject of  
20 notifications made to eligible taxpayers on or after October 1,  
21 2002, and before July 1, 2003.

22 (i) Whenever a "high-risk collection account" is forgiven of  
23 any penalties and interest pursuant to this section, the public  
24 record shall include all of the following information:

25 (1) The name of the taxpayer.

26 (2) The amount of related penalties and interest relieved.

27 (3) A summary of the reason why the relief is in the best interest  
28 of the state.

29 (j) This section shall remain in effect only until December 31,  
30 2004, and as of that date is repealed.

31 SEC. 2. Section 10754 of the Revenue and Taxation Code is  
32 amended to read:

33 10754. (a) Notwithstanding any other provision of law, the  
34 total amount of the vehicle license fee otherwise required with  
35 respect to a vehicle shall be offset in accordance with those  
36 provisions set forth below that are operative pursuant to  
37 subdivision (b):

38 (1) (A) For any initial or original registration of any vehicle,  
39 never before registered in this state, for which the final due date  
40 for the license fee is on or after January 1 of any calendar year for



1 which this paragraph is operative, and for any renewal of  
2 registration with an expiration date on or after January 1 of any  
3 calendar year for which this paragraph is operative, the department  
4 shall offset the total amount of fees otherwise due at the time of  
5 registration of that vehicle by an amount equal to 25 percent of the  
6 amount computed pursuant to Section 10752 or 10752.1, or  
7 Section 18115 of the Health and Safety Code.

8 (B) Upon proper payment of license fees to the Department of  
9 Motor Vehicles, the amount of the offset for each vehicle shall be  
10 transferred into the Motor Vehicle License Fee Account in the  
11 Transportation Tax Fund, and into the Local Revenue Fund,  
12 pursuant to Section 11000 or Section 11000.1, as applicable.

13 (C) During any period in which insufficient moneys are  
14 available to be transferred from the General Fund to fully fund the  
15 offsets required by subparagraph (A), within 90 days of a  
16 reduction of funding, the department shall reduce the amount of  
17 each offset computed pursuant to that subparagraph by  
18 multiplying that amount by the ratio of the amount of moneys  
19 actually available to be transferred from the General Fund to pay  
20 for those offsets to the amount of moneys that is necessary to fully  
21 fund those offsets.

22 (2) (A) For any initial or original registration of any vehicle,  
23 never before registered in this state, for which the final due date  
24 for the license fee is on or after January 1 of any calendar year for  
25 which this paragraph is operative, and for any renewal of  
26 registration with an expiration date on or after January 1 of any  
27 calendar year for which this paragraph is operative, the department  
28 shall offset the total amount of fees otherwise due at the time of  
29 registration of that vehicle by an amount equal to 35 percent of the  
30 amount computed pursuant to Section 10752 or 10752.1, or  
31 Section 18115 of the Health and Safety Code.

32 (B) Upon proper payment of license fees to the Department of  
33 Motor Vehicles, the amount of the offset for each vehicle shall be  
34 transferred into the Motor Vehicle License Fee Account in the  
35 Transportation Tax Fund, and into the Local Revenue Fund,  
36 pursuant to Section 11000 or Section 11000.1, as applicable.

37 (C) During any period in which insufficient moneys are  
38 available to be transferred from the General Fund to fully fund the  
39 offsets required by subparagraph (A), within 90 days of a  
40 reduction of funding, the department shall reduce the amount of

1 each offset computed pursuant to that subparagraph by  
2 multiplying that amount by the ratio of the amount of moneys  
3 actually available to be transferred from the General Fund to pay  
4 for those offsets to the amount of moneys that is necessary to fully  
5 fund those offsets.

6 (3) (A) For any initial or original registration of any vehicle,  
7 never before registered in this state, for which the final due date  
8 for the license fee is on or after January 1 of any calendar year for  
9 which this paragraph is operative, and for any renewal of  
10 registration with an expiration date on or after January 1 of any  
11 calendar year for which this paragraph is operative, the department  
12 shall offset the total amount of fees otherwise due at the time of  
13 registration of that vehicle by an amount equal to  $67\frac{1}{2}$  percent of  
14 the amount computed pursuant to Section 10752 or 10752.1, or  
15 Section 18115 of the Health and Safety Code.

16 (B) Upon proper payment of license fees to the Department of  
17 Motor Vehicles, the amount of the offset for each vehicle shall be  
18 transferred into the Motor Vehicle License Fee Account in the  
19 Transportation Tax Fund, and into the Local Revenue Fund,  
20 pursuant to Section 11000 or Section 11000.1, as applicable.

21 (C) During any period in which insufficient moneys are  
22 available to be transferred from the General Fund to fully fund the  
23 offsets required by subparagraph (A), within 90 days of a  
24 reduction in funding, the department shall reduce the amount of  
25 each offset computed pursuant to that subparagraph by  
26 multiplying that amount by the ratio of the amount of moneys  
27 actually available to be transferred from the General Fund to pay  
28 for those offsets to the amount of moneys that is necessary to fully  
29 fund those offsets.

30 (b) The offset provisions set forth in subdivision (a) shall be  
31 operative as provided by the following:

32 (1) Paragraph (1) of subdivision (a) shall be operative ~~for~~  
33 ~~vehicle~~ *for the following*:

34 (A) *Vehicle* license fees with a final due date in the calendar  
35 year beginning on January 1, 1999.

36 (B) *Vehicle license fees with a final due date in the calendar*  
37 *year beginning on January 1, 2003.*

38 (2) Paragraph (2) of subdivision (a) shall be operative for  
39 vehicle license fees with a final due date on or after January 1,  
40 2000, and before July 1, 2001.



(3) Paragraph (3) of subdivision (a) shall be operative for vehicle for the following:

(A) Vehicle license fees with a final due date on or after July 1, 2001, and before January 1, 2003.

(B) Vehicle license fees with a final due date on or after January 1, 2004.

(c) (1) For purposes of this section, “department” means the Department of Motor Vehicles with respect to a vehicle license fee offset for a vehicle subject to registration under the Vehicle Code, and the Department of Housing and Community Development with respect to a vehicle license fee offset for a manufactured home, mobilehome, or commercial coach described in Section 18115 of the Health and Safety Code.

(2) For purposes of this section, the “final due date” for a license fee is the last date upon which that fee may be paid without being delinquent.

SEC. 3. Section 17052.2 of the Revenue and Taxation Code is amended to read:

17052.2. (a) For each taxable year beginning on or after January 1, 2000, and before January 1, 2002, and for each taxable year beginning on or after January 1, 2003, there shall be allowed as a credit against the “net tax” (as defined by Section 17039) to a credentialed teacher an amount equal to the amount determined in subdivision (b).

(b) The amount of the credit shall be the lesser of the amounts computed under paragraph (1) or (2):

(1) In the case of any credentialed teacher who has, as of the last day of the taxable year:

(A) Completed at least four but less than six years of service as a credentialed teacher, the credit shall be two hundred fifty dollars (\$250).

(B) Completed at least six but less than 11 years of service as a credentialed teacher, the credit shall be five hundred dollars (\$500).

(C) Completed at least 11 but less than 20 years of service as a credentialed teacher, the credit shall be one thousand dollars (\$1,000).

(D) Completed 20 or more years of service as a credentialed teacher, the credit shall be one thousand five hundred dollars (\$1,500).

1 (E) For purposes of determining years of service, years of  
2 service performed as a teacher in a qualified education institution,  
3 which otherwise meets the criteria specified in subdivision (d)  
4 except that the qualified education institution is not located in this  
5 state, in another state shall qualify for each year the teacher was  
6 credentialed by the public education agency in that state.

7 (2) Fifty percent of the amount determined as follows:

8 (A) Divide the amount received by the taxpayer as wages and  
9 salary for services as a credentialed teacher, as defined in  
10 paragraph (3) of subdivision (c), by the taxpayer's total adjusted  
11 gross income from all sources.

12 (B) Multiply the taxpayer's total tax, as defined in paragraph  
13 (4) of subdivision (c), by a ratio, not to exceed 1.00, that is  
14 otherwise equal to the ratio determined for the taxpayer under  
15 subparagraph (A).

16 (c) For purposes of this section, all of the following definitions  
17 apply:

18 (1) "Credentialed teacher" means a person who holds a  
19 preliminary or professional clear credential as determined by the  
20 Commission on Teacher Credentialing pursuant to Article 1  
21 (commencing with Section 44200) of Chapter 2 of Part 25 of  
22 Division 2 of Title 2 of the Education Code and who teaches at a  
23 qualifying educational institution.

24 (2) "Qualifying educational institution" means any  
25 elementary, secondary, or vocational-technical school located in  
26 this state providing education for kindergarten, grades 1 to 12,  
27 inclusive, or any part thereof. "Qualifying educational  
28 institution" includes an agency or instrumentality of the federal  
29 government providing education for grades kindergarten, grades  
30 1 to 12, inclusive, or any part thereof, at any location within this  
31 state, including an Indian reservation or a military installation  
32 located within the geographical borders of this state, where a  
33 credentialed teacher is employed by the federal government or an  
34 agency or instrumentality thereof. "Qualifying educational  
35 institution" includes any elementary, secondary, or vocational  
36 technical school located in California, that files an affidavit  
37 pursuant to Section 33190 and 33191 of the Education Code, and  
38 provides education for kindergarten and grades 1 to 12, inclusive,  
39 or any part thereof.

(3) “Wages and salaries for services as a credentialed teacher” includes only those amounts received with respect to services performed as a credentialed teacher, but does not include pensions or other deferred compensation.

(4) “Total tax” means the tax imposed under this part for the taxable year, before the application under Section 19007 of any payment of estimated tax or any installment thereof, less all credits allowed for the taxable year except for the following:

(A) The credit allowed under this section.

(B) The credit allowed under Section 17061 (relating to refunds under the Unemployment Insurance Code).

(C) The credit allowed under Section 19002 (relating to tax withholding).

(D) Any refundable credit that is allowed under this part.

*SEC. 4. Section 17276.3 of the Revenue and Taxation Code is amended to read:*

17276.3. (a) Notwithstanding ~~Section~~ Sections 17276, 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7 of this code and Section 172 of the Internal Revenue Code, ~~no~~ the following shall apply:

(1) No net operating loss deduction shall be allowed for ~~all taxable years beginning in the 1991 and 1992 calendar years~~ any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(2) For taxable years beginning on and after January 1, 2004, a net operating loss deduction shall be allowed in an amount equal to 80 percent of the amount allowed under Section 172 of the Internal Revenue Code, or a greater percentage of that amount if otherwise allowed under this part.

(b) For any carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

~~(1) By one year, for losses sustained in taxable years beginning in 1991.~~

~~(2) By two years, for losses sustained in taxable years beginning prior to January 1, 1991.~~

~~(c) Notwithstanding any other provision of this section, a deduction shall be allowed to a “qualified taxpayer” as provided~~

1 ~~in Sections 17276.1 and 17276.2 for taxable years beginning in the~~  
2 ~~1991 and 1992 calendar years.~~

3 (1) *By one year, for losses incurred on or after January 1, 2002,*  
4 *and before January 1, 2003.*

5 (2) *By two years, for losses incurred before January 1, 2002.*

6 SEC. 5. *Section 19136.8 of the Revenue and Taxation Code is*  
7 *amended to read:*

8 19136.8. (a) No addition to tax shall be made under Section  
9 19136 for any period before April 15, 2003, with respect to any  
10 underpayment of an installment for the 2002 taxable year, to the  
11 extent that the underpayment was created or increased by any  
12 provision of ~~the act adding this section~~ *law enacted or amended by*  
13 *an act chaptered during the 2002 calendar year.*

14 (b) No addition of tax shall be made under Section 19142 for  
15 any period before April 15, 2003, with respect to any  
16 underpayment of an installment for the 2002 taxable year, to the  
17 extent that the underpayment was created or increased by any  
18 provision of ~~the act adding this section~~ *law enacted or amended by*  
19 *an act chaptered during the 2002 calendar year.*

20 (c) The Franchise Tax Board shall implement this section in a  
21 reasonable manner.

22 SEC. 6. *Section 19444 is added to the Revenue and Taxation*  
23 *Code, to read:*

24 19444. (a) (1) *For the period beginning on October 1, 2002,*  
25 *and ending on June 30, 2003, an eligible taxpayer's liability, with*  
26 *respect to any unpaid taxes, may be satisfied by the payment of an*  
27 *eligible amount. The authority granted by this section is limited to*  
28 *an unpaid tax liability that has been determined by the Franchise*  
29 *Tax Board to be a high-risk collection account.*

30 (2) *The liability of an eligible taxpayer for any unpaid*  
31 *penalties, interest, and fees included in the computation of the*  
32 *unpaid tax liability shall be extinguished only upon receipt by the*  
33 *Franchise Tax Board of all payments equal to the eligible amount*  
34 *on or before the final due date for payment established by the*  
35 *Franchise Tax Board.*

36 (b) *For purposes of this section, the following definitions shall*  
37 *apply:*

38 (1) *"Eligible taxpayer" means any individual that receives*  
39 *notification from the Franchise Tax Board that the taxpayer's*

1 *unpaid tax liability may be satisfied by the payment of an eligible*  
2 *amount.*

3 (2) *“Eligible amount” means an amount equal to any unpaid*  
4 *tax liability, excluding penalties, interest, and fees, owed by the*  
5 *eligible taxpayer that is paid in one or more installments, as*  
6 *determined by the Franchise Tax Board, on or before the due date*  
7 *established by the Franchise Tax Board, but in no event later than*  
8 *June 30, 2004.*

9 (3) *“High-risk collection account” means any unpaid tax*  
10 *liability of a taxpayer where satisfaction of that liability under this*  
11 *section would be in the best interest of the state, and shall include*  
12 *any unpaid tax liability for which the Franchise Tax Board has*  
13 *made either of the following determinations:*

14 (A) *Under the Franchise Tax Board’s collection modeling*  
15 *policies, practices, and procedures, efforts to collect the unpaid*  
16 *tax liability would not be economical.*

17 (B) *The unpaid tax liability would not be paid in full within a*  
18 *reasonable period of time.*

19 (4) *“Unpaid tax liability” means any final assessment of*  
20 *liability under Part 10 (commencing with Section 17001),*  
21 *including tax, penalties, interest, and fees (other than an*  
22 *assessment resulting from a proposed assessment issued under the*  
23 *authority of Section 19087) that are owed by an individual and, as*  
24 *of October 1, 2002, are unpaid.*

25 (c) *No refund or credit shall be granted with respect to any*  
26 *penalty or interest paid or collected with respect to an unpaid tax*  
27 *liability prior to October 1, 2002.*

28 (d) *The determinations made by the Franchise Tax Board*  
29 *pursuant to this section shall be final and conclusive and shall not*  
30 *be subject to review by any other officer, employee, or agent of the*  
31 *state, or by any court.*

32 (e) *Nothing in Section 19542, or in any other provision of law,*  
33 *shall be construed to require the disclosure of standards used or to*  
34 *be used in connection with any determinations made by the*  
35 *Franchise Tax Board for purposes of this section, or the data used*  
36 *or to be used for determining those standards if the Franchise Tax*  
37 *Board determines that the disclosure will seriously impair*  
38 *assessment, collection, or enforcement under this part.*

39 (f) *Nothing in this section shall authorize the Franchise Tax*  
40 *Board to compromise any final tax liability.*

(g) *The Legislature finds that it is essential for fiscal purposes that the special collection efforts authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued in implementing and administering the program required by this section.*

(h) *This section shall be operative with respect to unpaid tax liabilities of high-risk collection accounts that are the subject of notifications made to eligible taxpayers on or after October 1, 2002, and before July 1, 2003.*

(i) *Whenever a “high-risk collection account” is forgiven of any penalties, interest, or fees pursuant to this section, the public record shall include all of the following information:*

(1) *The name of the taxpayer.*

(2) *The amount of related fees, penalties, and interest relieved.*

(3) *A summary of the reason why the relief is in the best interest of the state.*

(j) *This section shall remain in effect only until December 31, 2004, and as of that date is repealed.*

SEC. 7. *Section 23457 of the Revenue and Taxation Code, as amended by Section 37 of Chapter 35 of the Statutes of 2002, is amended to read:*

23457. For purposes of this part, Section 57 of the Internal Revenue Code is modified as follows:

(a) Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest, shall not be applicable.

~~(b) Section 57(a) of the Internal Revenue Code, relating to items of tax preference, is modified to include as an item of tax preference the amount by which the deduction allowable under Section 24348 for the taxable year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the taxpayer maintained its bad debt reserve for all taxable years on the basis of actual experience.~~

~~(c) Section 57(a)(6) of the Internal Revenue Code, relating to accelerated depreciation or amortization on certain property placed in service before January 1, 1987, is modified to read: With respect to each property as described in Section 1250(c) of the Internal Revenue Code as that provision read on April 1, 1970, the~~



amount by which the deduction allowable for the taxable year for exhaustion, wear, tear, obsolescence, or amortization exceeds the depreciation deduction that would have been allowable for the taxable year, had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to Section 24354.2 or 24381) for which the taxpayer has held the property.

SEC. 8. Section 24348 of the Revenue and Taxation Code is amended to read:

24348. (a) ~~(1)~~—There shall be allowed as a deduction either of the following:

~~(A)~~—

(1) Debts which become worthless within the taxable year in an amount not in excess of the part charged off within that taxable year.

~~(B)~~—

(2) In the case of a ~~savings and loan association~~, bank (as defined in Section 581 of the Internal Revenue Code), ~~or financial corporation~~, in lieu of any deduction under ~~subparagraph (A) paragraph (1)~~, in the discretion of the Franchise Tax Board, a reasonable addition to a reserve for bad debts *determined in accordance with Section 585 of the Internal Revenue Code, relating to reserves for losses on loans of banks, except as otherwise provided.*

~~(2)~~—

(b) When satisfied that a debt is recoverable in part only, the Franchise Tax Board may allow that debt, in an amount not in excess of the part charged off within the taxable year, as a deduction; provided, however, that if a portion of a debt is claimed and allowed as a deduction in any year, no deduction shall be allowed in any subsequent year for any portion of the debt which in any prior year was charged off, regardless of whether claimed as a deduction in that prior year.

~~(b) (1) The amendments to this section made during the 1985-86 Regular Session by the act adding this subdivision shall apply only to taxable years beginning after December 31, 1987.~~

~~(2) In the case of any taxpayer who maintained a reserve for bad debts for that taxpayer's last taxable year beginning before January 1, 1988, and who is required by the amendments to this section to~~



~~change its method of accounting for any taxable year, all of the following shall apply:~~

~~(A) That change shall be treated as initiated by the taxpayer.~~

~~(B) That change shall be treated as made with the consent of the Franchise Tax Board.~~

~~(C) The net amount of adjustments required by Article 6 (commencing with Section 24721) of Chapter 13, to be taken into account by the taxpayer shall:~~

~~(i) In the case of a taxpayer maintaining a reserve under former subdivision (b) (prior to the amendments made during the 1985-86 Regular Session by the act adding this subdivision), be reduced by the balance in the suspense account under paragraph (4) of that subdivision as of the close of such last taxable year; and~~

~~(ii) Be taken into account ratably in each of the first four taxable years beginning after December 31, 1987.~~

~~(c) (1) The amendments to this section made by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 2002.~~

~~(2) In the case of any bank, savings and loan association, or financial corporation (whether a taxpayer or a member of a combined reporting group) that maintained a reserve for bad debts for the last taxable year beginning before January 1, 2002, and that is required by the amendments to this section to change its method of computing reserves for bad debts, all of the following shall apply:~~

~~(A) That change shall be treated as a change in a method of accounting.~~

~~(B) That change shall be treated as initiated by the bank, savings and loan association, or financial corporation (whether a taxpayer or a member of a combined reporting group).~~

~~(C) That change shall be treated as made with the consent of the Franchise Tax Board.~~

~~(D) The net amount of adjustments required by Article 6 (commencing with Section 24721) of Chapter 13 to be taken into account by the bank, savings and loan association, or financial corporation (whether a taxpayer or a member of a combined reporting group):~~

~~(i) Shall be determined by taking into account only 50 percent of the "applicable excess reserves" (as defined in subdivision (d)), and~~

(ii) As so determined, shall be taken into account on the last day of the first taxable year beginning on or after January 1, 2002.

(iii) The amount of “applicable excess reserves” in excess of the amount taken into account under clause (i) of this subparagraph shall be reduced to zero and shall not be taken into account for purposes of this part.

(d) (1) In the case of a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), or a financial corporation that is not allowed to use the reserve for bad debts under Section 585 of the Internal Revenue Code, the term “applicable excess reserves” means the balance of the reserves described in former subparagraph (B) of paragraph (1) of subdivision (a) (prior to the amendments made by the act adding this subdivision) as of the close of the last taxable year beginning before January 1, 2002.

(2) In all other cases, the term “applicable excess reserves” shall be zero and shall not be taken into account for purposes of this part.

(e) The amount of “applicable excess reserves” not taken into account pursuant to clause (iii) of subparagraph (D) of paragraph (2) of subdivision (c) or paragraph (2) of subdivision (d) shall not affect the amount of the allowable deduction under paragraph (1) of subdivision (a).

SEC. 9. Section 24416.3 of the Revenue and Taxation Code is amended to read:

24416.3. (a) Notwithstanding ~~Section~~ Sections 24416, 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, and 24416.7 of this code and Section 172 of the Internal Revenue Code, ~~no~~ the following shall apply:

(1) No net operating loss deduction shall be allowed for ~~all~~ income years beginning in the 1991 and 1992 calendar years any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(2) For taxable years beginning on and after January 1, 2004, a net operating loss deduction shall be allowed in an amount equal to 80 percent of the amount allowed under Section 172 of the Internal Revenue Code, or a greater percentage of that amount if otherwise allowed under this part.

(b) For any carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under

1 Section 172 of the Internal Revenue Code shall be extended as  
2 follows:

3 ~~(1) By one year, for losses sustained in income years beginning~~  
4 ~~in 1991.~~

5 ~~(2) By two years, for losses sustained in income years~~  
6 ~~beginning prior to January 1, 1991.~~

7 ~~(c) Notwithstanding any other provision of this section, a~~  
8 ~~deduction shall be allowed to a “qualified taxpayer” as provided~~  
9 ~~in Sections 24416.1 and 24416.2 for income years beginning in the~~  
10 ~~1991 and 1992 calendar years.~~

11 ~~(1) By one year, for losses incurred on or after January 1, 2002,~~  
12 ~~and before January 1, 2003.~~

13 ~~(2) By two years, for losses incurred before January 1, 2002.~~

14 *SEC. 10. Section 24449 of the Revenue and Taxation Code is*  
15 *amended to read:*

16 24449. (a) Section 291 of the Internal Revenue Code,  
17 relating to special rules relating to corporate preference items,  
18 shall apply, except as otherwise provided.

19 (b) ~~For purposes of this section:~~

20 ~~(1) The reference in Section 291(a)(3) to “a deduction under~~  
21 ~~this chapter” shall be modified to mean the deduction under~~  
22 ~~Section 24348 of this part.~~

23 ~~(2) The reference in Section 291(b)(1) of the Internal Revenue~~  
24 ~~Code to “Section 263(c)” shall be modified to mean the deduction~~  
25 ~~under Section 24423 of this part.~~

26 *SEC. 11. Article 4 (commencing with Section 30133) is added*  
27 *to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation*  
28 *Code, to read:*

29  
30 *Article 4. General Fund Surtax on Tobacco*  
31

32 30133. (a) *In addition to the taxes imposed upon the*  
33 *distribution of cigarettes by Article 1 (commencing with Section*  
34 *30101), Article 2 (commencing with Section 30121), Article 3*  
35 *(commencing with Section 30131), and any other taxes in this*  
36 *chapter, there shall be imposed an additional surtax upon every*  
37 *distributor of cigarettes at the rate of thirty-one and one-half mills*  
38 *(\$0.0315) for each cigarette distributed.*

1     ***(b) The tax imposed under this section shall be imposed on***  
2 ***cigarettes in the possession or under the control of every dealer***  
3 ***and distributor on and after 12:01 a.m. on August 1, 2002.***

4     30135. ***(a) Every dealer and wholesaler, for the privilege of***  
5 ***holding or storing cigarettes for sale, use, or consumption, shall***  
6 ***pay a floor stock tax for each cigarette in his or her possession or***  
7 ***under his or her control in this state at 12:01 a.m. on August 1,***  
8 ***2002, at the rate of thirty-one and one-half mills (\$0.0315) for***  
9 ***each cigarette.***

10   ***(b) Every dealer and wholesaler shall file a return with the***  
11 ***board on or before September 25, 2002, on a form prescribed by***  
12 ***the board, showing the number of cigarettes in his or her***  
13 ***possession or under his or her control at 12:01 a.m. on August 1,***  
14 ***2002. The amount of tax shall be computed and shown on the***  
15 ***return.***

16   ***(c) Every licensed cigarette distributor, for the privilege of***  
17 ***distributing cigarettes and for holding or storing cigarettes for***  
18 ***sale, use, or consumption, shall pay a cigarette indicia adjustment***  
19 ***tax for each California cigarette tax stamp that is affixed to any***  
20 ***package of cigarettes and for each unaffixed California cigarette***  
21 ***tax stamp in his or her possession or under his or her control at***  
22 ***12:01 a.m. on August 1, 2002, at the following rates:***

23     ***(1) Seventy-eight and three-quarter cents (\$0.7875) for each***  
24 ***stamp bearing the designation "25."***

25     ***(2) Sixty-three cents (\$0.63) for each stamp bearing the***  
26 ***designation "20."***

27     ***(3) Thirty-one and one-half cents (\$0.315) for each stamp***  
28 ***bearing the designation "10."***

29   ***These amounts shall be reduced by a discount to a licensed***  
30 ***distributor determined in accordance with Section 30166.***

31   ***(d) Every licensed cigarette distributor shall file a return with***  
32 ***the board on or before September 25, 2002, on a form prescribed***  
33 ***by the board, showing the number of stamps in paragraphs (1), (2),***  
34 ***and (3) of subdivision (c). The amount of tax shall be computed and***  
35 ***shown on the return.***

36   ***(e) The taxes required to be paid by this section are due and***  
37 ***payable on or before October 15, 2002. Payments shall be made***  
38 ***by remittances payable to the board and the payments shall***  
39 ***accompany the forms required to be filed by this section.***

1 (f) Any amount required to be paid by this section that is not  
2 timely paid shall bear interest at the rate and by the method  
3 established pursuant to Section 30202 from September 25, 2002,  
4 until paid, and shall be subject to determination, and  
5 redetermination, and any penalties provided with respect to  
6 determinations and redeterminations.

7 30137. Except for payments of refunds made pursuant to  
8 Article 1 (commencing with Section 30361) of Chapter 6, and  
9 reimbursement of the State Board of Equalization for expenses  
10 incurred in the administration and collection of the taxes imposed  
11 by this article, all moneys raised pursuant to the taxes imposed by  
12 this article shall be transmitted by the board to the Treasurer for  
13 deposit in the General Fund.

14 SEC. 12. It is the intent of the Legislature that, in order to  
15 improve compliance with state tax laws and to accelerate the  
16 collection of accounts determined to be at high risk for collection,  
17 the staff of the Board of Equalization and the Franchise Tax Board  
18 shall, pursuant to Sections 7093.8 and 19444 of the Revenue and  
19 Taxation Code as added by this act, expeditiously institute special  
20 collection efforts to commence on October 1, 2002, and end on  
21 June 30, 2003.

22 SEC. 13. This act is an urgency statute necessary for the  
23 immediate preservation of the public peace, health, or safety  
24 within the meaning of Article IV of the Constitution and shall go  
25 into immediate effect. The facts constituting the necessity are:

26 In view of the fact that the State of California is experiencing a  
27 fiscal crisis, in order to improve compliance with state tax laws and  
28 to accelerate the collection of accounts that might not otherwise  
29 be collected, and in order to provide for sufficient revenues for the  
30 funding of the critical needs of the state, it is necessary that this act  
31 take effect immediately.

32  
33  
34 **All matter omitted in this version of the**  
35 **bill appears in the bill as amended in the**  
36 **Senate, June 24, 2002 (JR 11)**  
37  
38